## REMARKS

This amendment is being filed in response to the Office Action having a mailing date of April 7, 2005. Claims 1-22 are pending. Claims 1-22 are rejected. Claims 1, 10-19 and 22 are amended to further clarify the inventive subject matter recited therein. No new matter has been added. All of the claims remaining in the application are now believed allowable for the reasons stated bellow.

### I. Rejections under 35 U.S.C. § 101

Claims 10-17 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claims 10-17 have been amended.

As amended, Claims 10-17 recite a "computer-readable medium having a computer program stored thereon to provide a linker." Products defined as tangible media, such as a computer readable memory, with a computer-implemented method or program embedded thereon are properly within one of the four statutory categories of invention. *In re Beauregard*, 53 F3d 1583, 35 USPQ2d 1383 (Fed. Cir. 1995). Therefore, the rejection is believed to be traversed and notice to that affect is respectfully requested.

### II. Rejections under 35 U.S.C. § 103(a)

Claims 1-7 and 10-22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Chameberlain et. al., "Using ld The GNU linker ld version 2 Version 2.9.4" (hereinafter *Chamberlain*) in view of Ohde et. al., U.S. Pat. No. 5,511,207 (hereinafter *Ohde*). Claims 1, 10-18, 19 and 22 have been amended. Claims 2-7, 11, 13-17, and 21 depend from Claims 1, 10 and 19.

#### A. Instruction Count

Regarding Claims 1, 10, 18 and 22 the Examiner stated on page 3, paragraph 2A of the Office Action that in order to distinguish the limitation "instruction count" over the "offset address" of the prior art of record, the Applicant is advised "to incorporate an explicit definition of the 'instruction count' in the body of the independent claims." Claims 1, 10, 18 and 22 have therefore been amended in accordance with the spirit of the Examiner's request. For example, amended Claims 1, 10, 18 and 22 recite "each relaxation instruction having associated therewith

a unique instruction count of a sequence of instruction counts determining the ordered sequence of relaxation instructions." Support for this amendment may be found at page 13, line 22 of the present application, for example.

This recitation clearly distinguishes the "instruction count" of the present invention over an "offset address." In particular, an "offset address" does not determine an ordered sequence of instructions, as it merely defines a location relative to a given point. The term "offset address" as known in the art does not imply that instructions should be executed in a specific ordered sequence.

The Examiner stated that Chamberlain does not disclose a sequence of instruction counts, but asserts that this feature is taught by *Ohde* (see, e.g., Office Action at page 6, paragraph 2). The applicant respectfully disagrees with regard to the *Ohde* position taken by the Examiner. As amended, Claim 1 recites "instruction counts determining the ordered sequence of relaxation instructions." In contrast to the recited instruction counts, *Ohde* teaches a system that reduces the number of instructions needed to be executed in a CPU processing unit to repeat a number of program operations (see, e.g., *Ohde* at col. 2 lines 19-21, and col. 3 lines 1-27). In no manner does *Ohde* disclose, teach or suggest instruction counts determining the ordered sequence of relaxation instructions as recited in amended Claim 1.

Further, the count that is utilized in *Ohde* defines "the repetition number of a program operation to be repeatedly executed" (see, e.g., *Ohde* at col. 3, lines 51-52). For example, with reference to Figure 5 of *Ohde*, it can be seen that the group of instructions N to N+M are repeatedly executed (see, e.g., *Ohde* at col. 5, lines 42-57). Each time this group of instructions is executed, the counter is decremented, until it reaches zero (see, e.g., *Ohde* at col. 5, lines 42-57). Therefore, during one particular repetition of the instructions, the counter value is the same for all of the instructions N to N+M, and as such, an instruction of *Ohde* cannot be considered to be associated with a unique instruction count, and the count of *Ohde* cannot in itself determine the sequence of instructions as described in Applicant's amended Claim 1.

B. Jump Instruction

Claim 1, additionally recites "an ordered sequence of relaxation instructions including a first type defining relocation operations and a second type controlling linker operations...wherein the second type includes a jump relaxation instruction." The Examiner

acknowledged that *Chamberlain* is searching for jsr and jmp commands in the executable program code, and replacing them with bsr and bra command (see, e.g., Office Action at pg. 6, par. 1). As such, *Chamberlain* teaches merely replacing jump instructions already present in the executable code and not performing any actual jump operations during linking. Claim 1 has been amended to specifically recite a linking method and since *Chamberlain* does not disclose, teach or suggest a linking method that includes performing jump operations as is described in Applicant's Claim 1, amended Claim 1 is now allowable.

C. Executable Program

In order to further clarify this distinction, Claim 1 has been additionally amended to recite that "the formed executable program comprises section data from the plurality of object code modules, relocated in accordance with the executed relaxation instructions." This amendment makes it clear that the code in the executable program comes from the section data, and the jump instructions are for controlling the operation of the linker. The jump instructions are not placed into the executable program. *Chamberlain* on the other hand, as the Examiner has acknowledged, teaches only jump instructions that are part of the executable code. Thus, *Chamberlain* is completly silent with regards to a linking method that includes a jump instruction as is recited in amended Claim 1. As such, none of the cited references, singly or in combination, disclose, teach or suggest all of the limitations of Applicant's Claim 1. Therefore, amended Claim 1 is believed to be allowable and notice to that affect is respectfully requested.

D. Other Claims

Claims 6-7 depend from and further limit Claim 1. Claims 6-7 are therefore allowable for at least the same reasons as that of Claim 1 as well as any additional limitations they recite.

Regarding claim 10, the Examiner has advised the applicant to "specify that the claimed linker is before the target executable." Claim 10 has therefore been amended in accordance with the spirit of the Examiner's request. For example, amended Claim 10 recites "a section data module for holding section data and outputting the prepared executable program." Support for this amendment may be found starting at page 17, line 29 to page 18, line 1 of the present application, for example.

Claims 10, 18 and 19 have been amended in a manner consistent with amended Claim 1. As such, none of the cited references, singly or in combination, disclose, teach or suggest all of

the limitations of amended Claims 10, 18 and 19. Therefore, amended Claims 10, 18 and 19 are believed to be allowable and notice to that affect is respectfully requested.

Claims 11-22 depend from and further limit Claims 10 and 19. Claims 11-22 are therefore allowable for at least the same reasons as that of Claims 10 and 19 as well as any additional limitations they recite.

Claims 12 and 19 have been amended to correct minor informalities.

Claims 8-9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Chamberlain* in view of Charles et. al., U.S. Pat. No. 6,314,564 (hereinafter *Charles*). Claims 8-9 depend indirectly from and further limit amended Claim 1. Dependant Claims 8-9 are therefore allowable for at least the same reasons as that of amended Claims 1 as well as any further limitations they recite.

III. Conclusion

Overall, none of the references singly or in any motivated combination disclose, teach, or suggest what is recited in the independent claims. Thus, given the above amendments and accompanying remarks, the independent claims are now in condition for allowance. The dependent claims that depend directly or indirectly on these independent claims are likewise allowable based on at least the same reasons and based on the recitations contained in each dependent claim.

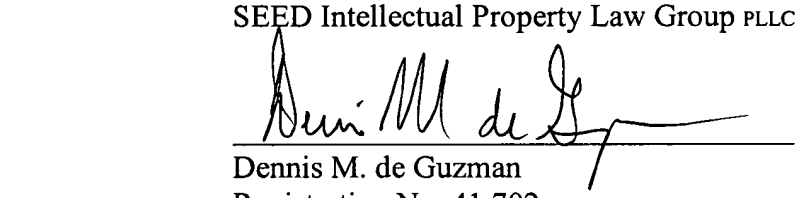
If the applicants' attorney Dennis M. de Guzman has overlooked a teaching in any of the cited references that is relevant to the allowability of the claims, the Examiner is requested to specifically point out where such teaching may be found. Further, if there are any informalities or questions that can be addressed via telephone, the Examiner is encouraged to contact the applicants' attorney Dennis M. de Guzman at (206) 622-4900.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

All of the claims remaining in the application are now clearly allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,

SEED Intellectual Property Law Group PLLC



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